

IOWA BOARD OF EDUCATIONAL EXAMINERS

IN THE MATTER OF:

Debi Wesolowski,

Respondent.

Case No. 19-89/20BEE0005

License No. 352700

**Order Regarding Proposed
Decision**

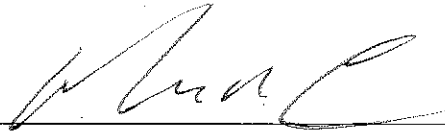
This matter came before the Board through a Complaint. The Board found probable cause to set the matter for hearing, and a hearing took place before Administrative Law Judge Emily Kimes-Schwiesow on April 13, 2020. Judge Kimes-Schwiesow issued a proposed decision on May 27, 2020. The proposed decision was served upon the Respondent and the Board.

Neither party appealed within the time allowed by 282 Iowa Administrative Code 11.28(1), and the Board did not move to initiate review of the proposed decision on its own motion.

ORDER

THEREFORE, the Proposed Decision in the matter stands as the Board's final ruling.

Dated this 26th day of June, 2020.



Michael D. Cavin, Interim Executive Director
On behalf of the Board

Copies to:

Debi Wesolowski (certified mail and first-class mail)
RESPONDENT

Jesse Ramirez (electronic mail)
ATTORNEY FOR STATE

IOWA BOARD OF EDUCATIONAL EXAMINERS

MAY 27 2020

In the Matter of:)	DIA No. 20BEE0005
)	Case No. 19-89
DEBI WESOLOWSKI,)	
)	
Respondent.)	PROPOSED DECISION

STATEMENT OF THE CASE

On November 21, 2019, the Iowa Board of Educational Examiners (the Board) issued a Notice of Hearing and Statement of Charges against Respondent Debi Wesolowski, alleging the following counts:

Count I: Respondent is charged with falsifying or deliberately misrepresenting or omitting material information regarding the evaluation of students or personnel, including improper administration of any standardized tests, including, but not limited to, changing test answers, providing test answers, copying or teaching identified test items, or using inappropriate accommodations or modifications for such tests, in violation of Board rule 282 Iowa Admin. Code 25.3(3)(e).

Count II: Respondent is charged with willfully or repeatedly departing from or failing to conform to the minimum standards of acceptable and prevailing educational practice in the state of Iowa, in violation of Board rule 282 Iowa Admin. Code 25.3(8)(a).

The hearing was continued and held on April 13, 2020 via telephone conference call. The state was represented by assistant attorney general Jesse Ramirez. Respondent Debi Wesolowski appeared and was self-represented.

The record in the case includes Exhibits 1-4, which were offered by the State and admitted into evidence at the hearing. Additionally, the record includes the testimony of Debi Wesolowski and Dr. Erica Goldstone.

FINDINGS OF FACT

A. *Licensure and Relevant Work History*

Respondent Debi Wesolowski holds a standard educator license (folder # 352700) with the following endorsements: K-8 Behavioral Disorders and 5-12 Learning Disabilities. Wesolowski's license is current and will expire on February 29, 2024. (Exhibit 4) She began working in the Davenport Community School District (District) on August 19, 2002. Wesolowski resigned her position as an elementary special education teacher at

Garfield Elementary in May 2019. She is currently employed as a special education teacher in another district. (Wesolowski testimony).

B. 2018-2019 School Year

In the spring of 2019, the District became aware that Ms. Wesolowski had entered data in the IMS information system for a student before the student began attending school at Garfield. This student, referred to herein as Student A, was planning to dual enroll at Garfield and a private school. Assessment data was entered for Student A on January 4, 2019. However, Student A's parent did not sign their individualized education plan (IEP) until January 10, 2019. A meeting was held on April 23, 2019 with Ms. Wesolowski to discuss the situation with Student A. At that meeting, Wesolowski initially indicated she had gone to Student A's private school and completed testing prior to their arrival at Garfield. She next retracted that statement and indicated she had erroneously entered data for Student A because they had the same initials as another student in her class. It was noted that these two students have very distinct IEPs, one with reading goals based on scores 1-8 and the other with behavioral goals based on a total of 100%. (Exhibit 3; Goldstone testimony)

Following the April 23, 2019 meeting, Garfield principal, Tom Green, accompanied Wesolowski to her classroom to collect her records. Ms. Wesolowski indicated she had copies of all of her probes which document the assessments that were done and support the data scores she entered in the IMS system for her students. It took over two hours for Ms. Wesolowski to collect her records. (Exhibit 3; Goldstone testimony)

Dr. Erica Goldstone is the director for human resources and equity with the District. Dr. Goldstone testified regarding the responsibilities of special education teachers to keep accurate data regarding their students. Data entered into the IMS system is used to determine whether a student is making progress. Data is to be graphed and communicated to the family regularly. If progress is not monitored or recorded accurately, the student's progress toward goals may be negatively impacted. All data is to be substantiated by probes, which are assessments on goal areas. Each student's IEP outlines specific dates when data probes must be completed and recorded. Hard copies of probes must be maintained for a minimum of two years. A review of responsibilities related to IEPs and data collection are reviewed with staff annually at the beginning of each academic year. (Exhibit 3; Goldstone testimony)

Two special education specialists with the District performed a forensic exam of Wesolowski's records. They reviewed all of the hard copy probes collected from the classroom and compared them to the data Wesolowski entered into the IMS system. They found a large number of data entries that did not have a corresponding probe. There were 135 missing probes for 11 students. A meeting was held on May 13, 2019 to discuss the results of the forensic exam. Dr. Goldstone testified that the volume of missing probes is indicative of a repeated failure by Ms. Wesolowski to meet minimum standards of practice. The number of missing probes is too high to be dismissed as a mere accident or mistake. Wesolowski was placed on administrative leave and later resigned. The District filed a complaint with the Board on June 18, 2019 and an

investigation was completed. Wesolowski was unresponsive during the investigation. (Exhibit 3, 4; Goldstone testimony)

At hearing, Wesolowski acknowledged that she was responsible for keeping accurate records and reporting correct data regarding her students and their IEPs. She also acknowledged that some of her probes were missing. She contends she was unaware of a requirement to maintain the probes. Wesolowski reported she did not have a secure file cabinet in her classroom. There was some water damage in her classroom that destroyed records, and she also indicated students had torn up some of her records. She now understands that she should have included an explanation for these circumstances with the data entries. Wesolowski testified that she provided incorrect information at the April 23, 2019 meeting regarding Student A. She contends she was surprised by the questioning and panicked. At hearing, Wesolowski indicated an AEA representative had done the initial assessment for Student A, and suggested they, or someone else, must have made the faulty data entries. Ms. Wesolowski admits she made mistakes and that she is not perfect, but she is adamant that she did not mean to cause any harm to her students. (Wesolowski testimony).

CONCLUSIONS OF LAW

The legislature created the Board of Educational Examiners with exclusive authority to license practitioners and develop a code of professional rights and responsibilities, practices and ethics. The Board has promulgated a Code of Professional Conduct and Ethics at 282 Iowa Administrative Code Chapter 25. Additionally, the Board has the authority to enforce its rules through revocation or suspension of a license, or by other disciplinary action against a practitioner licensed by the Board.¹

A. *Count I: Falsifying or Deliberately Misrepresenting Material Information Regarding Student Evaluations*

Count I alleges a violation of 282 Iowa Administrative Code section 25.3(3)(e), which provides that a violation includes:

- e. Falsifying or deliberately misrepresenting or omitting material information regarding the evaluation of students or personnel, including improper administration of any standardized tests, including, but not limited to, changing test answers, providing test answers, copying or teaching identified test items, or using inappropriate accommodations or modifications for such tests.

Wesolowski admitted in her own testimony that she did not have all of the data probes to support the data she entered in the online system. She provided multiple excuses for how those probes might have been destroyed or misplaced. Wesolowski also claimed she was unaware of the necessity of maintaining the data probes despite testimony from Dr. Gladstone that this requirement is reviewed annually with staff. Ms. Wesolowski

¹ Iowa Code § 272.2.

produced all of her data probes to her principal on April 23, 2019. At that time, she indicated they were all there. The record shows that 135 probes were missing for 11 students. The volume of missing probes reflects a complete failure to assure proper assessments were completed, documented, and reported as required. Reporting data in the IMS system without a supporting probe is a falsification of the student's data. There is no way to verify the assessments were completed, and if so, what the results were.

Additionally, although Wesolowski denied making an early data entry for Student A at hearing, she previously gave two alternative responses to the District. She first indicated she had assessed the student at their private school prior to their dual enrollment. She then recanted that explanation asserting that she simply confused Student A with another student with the same initials. The latter explanation lacks plausibility given the distinct IEPs for these two students, including the use of two different scoring scales. Wesolowski's inability to provide a clear and consistent explanation for the situation with Student A, as well as the 135 missing probes, calls her credibility into question.

Wesolowski deliberately entered data in the IMS system for which there was no corresponding data probe. This conduct was a falsification of student IEP data in violation of this standard.

B. Count II: Failure to Conform to Minimum Standards

Count II alleges a violation of 282 Iowa Administrative Code section 25.3(8)(a), which provides that a violation includes:

- (a) Willfully or repeatedly departing from or failing to conform to the minimum standards of acceptable and prevailing educational practice in the state of Iowa.

Based on the same facts outlined above with regard to Count I, the state has proven violation of this standard. There is a minimum expectation that special education teachers will implement and monitor the progress of their students' IEPs, including collecting and recording progress data. If progress is not monitored or recorded accurately, the student's progress toward goals may be negatively impacted. All data is to be substantiated by probes, and hard copies of probes must be maintained. Wesolowski failed to maintain documentation showing that probes were timely completed or accurately reported. She repeatedly entered data points into students' records without the necessary probes.

C. Sanction

Where a violation is found, the Board has the authority to impose the following disciplinary sanctions:

1. Revoke a practitioner's license, certificate or authorization.

2. Suspend a practitioner's license, certificate or authorization until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, a practitioner from engaging in specified practices, methods, or acts.
4. Require additional education or training.
5. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
6. Issue a public letter of reprimand.
7. Order any other resolution appropriate to the circumstances of the case.²

The state has requested that Wesolowski's special education endorsements be suspended, that she receive a written reprimand, and that she be required to attend a 15-hour Ethics for Educators course.

Wesolowski's repeated failure to ensure accurate data reporting is particularly concerning with regard to special education students who have IEPs in place. Progress monitoring is critical for special education students whose goals and objectives can significantly change based upon the reported data points. In determining an appropriate sanction, the Board's primary concern must be the protection of students. The sanction should provide proportionate punishment for the particular violation, make provision for any necessary remedial actions, and deter other practitioners from engaging in similar behavior. The seriousness of Wesolowski's conduct with regard to its potential impact on student learning merits a substantial sanction.

ORDER

IT IS THEREFORE ORDERED THAT Respondent shall be issued a public letter of reprimand regarding the violations that were committed.

IT IS FURTHER ORDERED that Respondent shall complete a 15-hour Ethics for Educators training course. Respondent shall be responsible for all costs associated with the completion of the course and shall submit proof of completion to the Board.

IT IS FURTHER ORDERED that Respondent's special education endorsements shall be suspended for a minimum of one year. In order to obtain reinstatement, Respondent must make application to the Board and demonstrate to the Board that the basis for suspension of the special education endorsements no longer exists and that it is in the public interest for the endorsements to be reinstated. Prior to any reinstatement, Respondent must verify completion of the 15-hour Ethics for Educators training course.

² 282 IAC 11.33.

Dated this 27th day of May, 2020.

A handwritten signature in cursive script, appearing to read "Emily Kimes-Schwiesow".

Emily Kimes-Schwiesow
Administrative Law Judge

cc: Jesse Ramirez, AAG (by electronic mail)
Debi Wesolowski, Respondent (by first class)
Kim Cunningham, Board of Educational Examiners (by electronic mail)

NOTICE

Any adversely affected party may appeal a proposed decision to the Board within 30 days after issuance of the proposed decision. The notice of appeal must be in writing and signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify the parties initiating the appeal, the proposed decision or order appealed from, and the specific findings or conclusions to which exception is taken and any other exceptions to the decision or order, the relief sought, and the grounds for relief. 282 Iowa Administrative Code 11.28.

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA**

In the matter of)	Case No. 19-89
)	Folder No. 352700
DEBI WESOLOWSKI,)	
)	NOTICE OF HEARING
Respondent.)	AND STATEMENT OF CHARGES

YOU ARE HEREBY NOTIFIED that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing will be held on Wednesday, January 8, 2020, before Administrative Law Judge Emily Kimes-Schwiesow, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 1:00 p.m. in Department of Inspections and Appeals, Wallace State Office Bldg, Third Floor, 502 E. 9th Street (East 9th and Grand Avenue), Des Moines, Iowa. You should report to the third floor Iowa Department of Inspections and Appeals' (DIA) receptionist prior to 1:00 p.m. to obtain the room assignment.

2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Assistant Attorney General identified below.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 Iowa Administrative Code rule 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the request for telephonic testimony must be served on the Board and all parties. Any

resistance to the request for telephone testimony must be filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 Iowa Administrative Code rule 11.18.

5. Prosecution. The office of the Attorney General is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Jesse Ramirez
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319
Telephone (515) 281-3395

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Ann Lebo, the Board's Executive Director, at (515) 281-5849 or to Assistant Attorney General Ramirez at (515) 281-3395.

B. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

7. Respondent is charged with falsifying or deliberately misrepresenting, or omitting information regarding the evaluation of students or personnel, including improper administration of any standardized tests, including, but not limited to changing test answers, providing test answers, copying or teaching identified test items, or using inappropriate accommodations for modifications for such tests, in violation of 282 Iowa Administrative Code rule 25.3(3)(e).

8. Respondent is charged with willfully or repeatedly departing from or failing to conform to the minimum standards of acceptable and prevailing educational practice in the state of Iowa, in violation of 282 Iowa Administrative Code rule 25.3(8)(a).

C. JURISDICTION AND LEGAL AUTHORITY

9. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272. If any of the allegations against you are proven at hearing, the Board has

authority to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 Iowa Administrative Code chapter 11.

D. FACTUAL CIRCUMSTANCES

10. Respondent holds a Standard LICENSE (FOLDER # 352700) with the following endorsements: K-8 Behavioral Disorders; 5-12 Learning Disabilities. This license is current and will next expire on 2/29/2024

11. During all material events of this case, Respondent was employed as a Special Education Teacher with the Garfield School District.

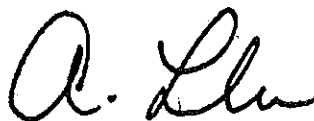
12. On June 18, 2019, the Board of Educational Examiners received a complaint against Respondent alleging various violations. On October 25, 2019, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

13. Investigation revealed that Respondent falsified or omitted required progress monitoring data concerning several students. Additionally, subsequent inquiry determined dishonesty and unwillingness to be forthcoming.

E. SETTLEMENT

14. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 Iowa Administrative Code rule 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified in Section A, above.

Dated this 21st day of November, 2019.



Ann Lebo, Executive Director
Iowa Board of Educational Examiners

Copies to:

Debi Wesolowski (first-class and restricted certified mail)
RESPONDENT

Jesse Ramirez (electronic mail)
ATTORNEY FOR THE STATE